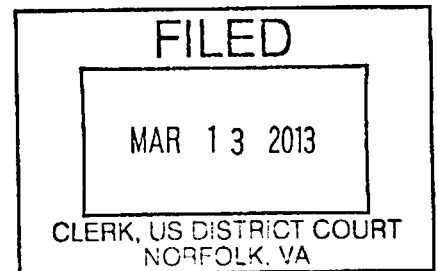


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



BRIAN FARABEE, No. 1002739,

Plaintiff,

v.

Civil Action No.: 2:12cv76

HAROLD W. CLARKE, Director, Va. Dep. of Corr. et al,

Defendants.

ORDER

Brian Farabee ("Petitioner") brought this Petition for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254, seeking to vacate his Virginia conviction for malicious wounding with the intent to maim, disfigure, or kill. Doc 1, 6. Pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure, Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia, and by Standing Order dated April 1, 2002,¹ this matter was referred to a United States Magistrate Judge for a Report and Recommendation.

The Report and Recommendation of the Magistrate Judge ("R&R"), filed on February 19, 2013, finds that Petitioner exhausted his state remedies, but that his petition is barred by the statute of limitations. Doc. 20. Accordingly, the Magistrate Judge recommends the following: 1) that Defendants' Motion to Dismiss, doc. 13, be granted; 2) that Petitioner's Petition for a Writ of Habeas Corpus, docs. 1, 6, be denied; 3) that Petitioner's Motion to Vacate Judgment and Sentence, doc. 18, be denied; and 4) that Petitioner's Motion for Summary Judgment, doc. 19, be denied.

¹ Standing Order on Assignment of Certain Matters to United States Magistrate Judges, 5 (E.D. Va. April 1, 2002), available at <http://www.vaed.uscourts.gov/courtdocs/MagistrateJudgeAssignmentsOrder.pdf>.

By copy of the R&R, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge within fourteen (14) days from the date the R&R was mailed, pursuant to Rule 6(a) of the Federal Rules of Civil Procedure, plus three (3) days permitted by Federal Rule of Civil Procedure Rule 6(d). The time for filing written objections has now passed, and neither party has filed objections. As indicated in the R&R, "failure to file timely specific written objections to the [] findings and recommendations will result in a waiver of the right to appeal from a judgment of this Court based on such findings and recommendations." Id. at 21 (citing Thomas v. Arn, 474 U.S. 140 (1985)).

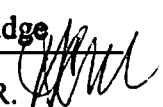
This Court has reviewed the R&R of the Magistrate Judge and hereby adopts and approves in full the findings and recommendations set forth therein. Accordingly, it is hereby **ORDERED** that Plaintiff's Petition for Writ of Habeas Corpus, docs. 1, 6, Motion to Vacate Judgment and Sentence, doc. 18, and Motion for Summary Judgment, doc. 19, are **DENIED**, that Defendants' Motion to Dismiss, doc. 13, is **GRANTED**, and that this case is **DISMISSED**.

Petitioner is advised that he may appeal from this Order by forwarding a written notice of appeal to the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510. Said written notice must be received by the Clerk within fourteen (14) days from the date of this Order. If Petitioner wishes to proceed in forma pauperis on appeal, the application to proceed in forma pauperis is to be submitted to the Clerk, United States Court of Appeals, Fourth Circuit, 1100 E. Main Street, Richmond, Virginia 23219.

The Clerk is **REQUESTED** to send a copy of this Order to all counsel of record.

It is so **ORDERED**.

/s/
Henry Coke Morgan, Jr.
Senior United States District Judge

HENRY COKE MORGAN, JR. 
SENIOR UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
Date: March 13, 2013